

JUNE 22, 2004

**CITY OF GUNNISON COUNCIL
REGULAR SESSION MINUTES**

7:00 P.M.

Following a Work Session meeting, the Regular Session was called to order at 7:00 P.M., by Mayor Ferguson with Councilmembers Simillion, Stone, and Smits present along with City Attorney Landwehr, City Manager Collins, City Clerk Davidson, WSC Intern Johnston, Finance Director Hanson, Public Works Director Coleman, Community Development Director Westbay, Planning Technician Antonucci, many interested citizens and the press. Councilmember Duba was absent due to a prior commitment.

Consideration of Minutes:

Regular Session Minutes of June 8, 2004.

Councilmember Stone moved and Councilmember Simillion seconded the motion to approve the Consent Agenda as submitted.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits. So carried.

Roll call vote, no: None.

Pre-Scheduled Citizens:

Gunnison Main Street Request for “Big Box” Retail Moratorium – Jon Schumacher, Bruce Hyde. Mr. Schumacher, Mr. Hyde and Michael Fornasiero came forward and addressed Council. Mr. Hyde is the Gunnison Main Street Director and Mr. Fornasiero and Mr. Schumacher are members of the Main Street Board. Mr. Hyde read the Gunnison Main Street Board of Directors’ letter calling for a moratorium on large-scale retail development within the City of Gunnison into the record.

City Attorney Landwehr informed Council that moratorium such as this have been upheld in the Colorado Courts if the moratorium is temporary in nature and has a finite period of time. If Council wants to proceed with a moratorium it would be accomplished by ordinance as a change to the Land Development Code (LDC). The City Code currently contains a process to impose a moratorium.

Councilmember Stone reminded Council that there is no development application for any kind of large scale retail development before the Planning Commission at this time. He feels the age of the Master Plan is not an issue and is a firm believer in individual property rights. If a person has a piece of property, they have the right to develop that property within the guidelines of the City.

Councilmember Smits concurred that the Master Plan is a visionary document and not a regulatory one. The Land Development Code was recently updated and he feels that any large scale development would fall under a Planned Unit Development (PUD) process.

Mr. Fornasiero didn’t agree. He stated there is no proof a big box development would have to go under a PUD. The current City Code doesn’t require developments of a large size to be developed as a PUD. He sees public process as being as important as individual property rights.

Mayor Ferguson stated that this Council is very committed to public process and he feels this Council does not want to act unilaterally on this first request. He feels there are more citizens out there that have strong opinions for and against this request. By following the process of having the Planning Commission review and then make a recommendation on the request for a moratorium, will allow the public to have not one but several opportunities to address Council, through public hearings, on this issue.

City Manager Collins stated Gunnison Main Street representatives, City Staff and representatives of Region 10 League for Economic Assistance, have been meeting to develop a public informational forum on the concept of “big box” retail and how it affects communities. The forum is scheduled for late July.

Mr. Fornasiero asked the City Attorney if Council can go ahead and pass the moratorium this evening. City Attorney Landwehr stated that yes, they could vote to instruct City Staff and City

Attorney to draw up the ordinance to impose a moratorium. However, there is already an established process in the Land Development Code to impose a moratorium.

Mayor Ferguson recommends that Council refer the request to the Planning Commission for public input, then make a recommendation to Council for any code amendment. This will allow for public input process and Council is committed to hear from all sides of this issue. He doesn't want to circumvent the process.

Councilmember Stone stated in his 13 years on City Council, he has never recommended to bypass the Planning Commission and he recommends using this process to have full public participation.

Councilmember Smits moved and Councilmember Simillion seconded the motion to remand the moratorium proposal from Gunnison Main Street to the Planning Commission and furthermore to the Community Development Staff to move forward in the process of the proposed moratorium.

Councilmember Stone moved and Councilmember Smits seconded to propose an amendment to the motion that is to direct the Planning Commission that an urgency label be put on it to identify it as an item they would like immediate attention, although not an immediate recommendation, and further amend that the Planning Commission be authorized to make recommendations to Council and Staff for any extraordinary type of notification that they feel is necessary to advertise public meetings concerning this issue.

Roll call vote on the Amendment:

Roll call vote, yes: Stone, Ferguson, Smits, Simillion. So carried.

Roll call vote, no: None.

Roll call vote on the Original Motion:

Roll call vote, yes: Ferguson, Smits, Simillion, Stone. So carried.

Roll call vote, no: None.

Mr. Fornasiero asked if Council would entertain a motion to impose a moratorium on big box development only until Council receives the recommendation from the Planning Commission. Council was not in agreement to entertain a motion. A six month moratorium would allow for the big box elements of the Master Plan to be moved to the forefront.

WSC Intern Johnston stated an imposition of a moratorium would be a stance against big box development and since Council would be acting on this issue at a later date, it wouldn't be appropriate.

Councilmember Smits stated he feels the Master Plan is sufficient as written, he has confidence in the Land Development Code and has confidence in the Community Development Director.

Mayor Ferguson agrees that the Master Plan is in need of review, but that process is underway. He is comfortable with the Land Development Code as it stands and feels that giving the Planning Commission urgency not to dawdle on this issue is best.

Mr. Hyde asked if a petition drive of the citizens would be the way to proceed. Mayor Ferguson stated that is up to the Planning Commission since they are now addressing the issue.

Mr. Schumacher stated his concern is that big box developers strike while the iron is hot, and in his opinion, the iron is hot. The updating of the Master Plan and LDC, the status of the Community Development Department creates a condition where a big box developer would want to come in now.

Mayor Ferguson and Council thanked Mr. Hyde, Mr. Schumacher and Mr. Fornasiero for their input and thanked the citizens in the audience for their comments. Mayor Ferguson reminded everyone there will be plenty of opportunity for public input on this issue, both in front of the Planning Commission and before Council.

Pat Lazerus of Gunnison Valley Aviations; Re: 2004 Gunnison Airshow. Pat Lazerus of Gunnison Valley Aviation came forward and requested funds from the City for an Airshow and Open House to be held on July 31st. The Airshow will help reopen the Gunnison/Crested Butte Regional Airport after it's closure for runway repairs. The Mason's will host a hangar breakfast and lunch, there will be ground displays and fly-overs and there is no admission fee. The County has donated \$5,000 to the event. The last Airshow was held in 2000.

Councilmember Stone moved and Councilmember Smits seconded the motion to approve the request from Gunnison Valley Aviation for \$3,500 in funds for the Airshow and Open House on July 31, 2004, pending the completion and signing of a Contract for Service, the City be listed as a co-sponsor, and with the understanding the Airshow Committee will go through the established budget process if they want to continue the program in future years.

Roll call vote, yes: Smits, Simillion, Stone, Ferguson. So carried.

Roll call vote, no: None.

Unfinished Business: None.

New Business:

Gunnison County's Request for Immigrant Integration Grant Letter of Support. This item was discussed at the Work Session prior to the Regular Session meeting.

Councilmember Stone moved and Councilmember Simillion seconded the motion to approve the Letter of Support for Gunnison County's application to the Colorado Trust for an Immigrant Integration Planning Grant and to authorize the Mayor to sign said letter.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits. So carried.

Roll call vote, no: None.

Challenge Grant Application from Gunnison Main Street for July 4th Big Bang Event in the Amount of \$2,500. This item was discussed at the Work Session prior to the Regular Session.

Councilmember Stone moved and Councilmember Simillion seconded the motion to accept the recommendation from the Challenge Grant Committee and approve the Challenge Grant Application from Gunnison Main Street for the July 4th Big Bang Event in the amount of \$2,000 with the following conditions: that Main Street will prepare a report of revenue increases for July 4th for specific businesses on Main Street and provide such report to the Challenge Grant Committee and to Council by July 31, 2004; that sponsors of the Big Bang Event will not submit future applications for the City of Gunnison Challenge Grant program; that awarded funds be used for advertising and promotional expenses; that the City's by-line will be displayed on all promotional material; and that if the event realizes a profit, the City's Challenge Grant funding will be returned prior to any donations made to other organizations.

Councilmember Stone asked Main Street Director Bruce Hyde if he understood and agreed with these conditions. Mr. Hyde stated he did.

Roll call vote, yes: Stone, Ferguson, Smits, Simillion. So carried.

Roll call vote, no: None.

Mayor Ferguson informed Mr. Hyde the event may fall under another category in the City budget for funding and to come forward during the budget process.

Multi-Day Special Events Permit for Gene Taylor's 4th of July Sidewalk Sale. City Clerk Davidson informed Council the application, being four or more days, requires Council approval. The event is being conducted in the same manner as last year's sale. That sale was scaled back somewhat from previous years and the City did not receive any adverse comments about last year's event.

Councilmember Simillion moved and Councilmember Smits seconded the motion to approve the Multi-Day Special Events Permit for Gene Taylor's Annual Sidewalk Sale to be held June 30, through July 4, 2004.

Roll call vote, yes: Ferguson, Smits, Simillion, Stone. So carried.

Roll call vote, no: None.

Ordinance and Resolutions:

Resolution No. 2, Series 2004; Re: Vacation of a Portion of a Utility Easement to Gunnison County at the Gunnison/Crested Butte Regional Airport.

Councilmember Stone introduced Resolution No. 2, Series 2004, and it was read by title only by the City Attorney.

Councilmember Stone moved and Councilmember Simillion seconded the motion that Resolution No. 2, Series 2004, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AUTHORIZING THE ELIMINATION OF A PORTION OF AN UNUSED UTILITY EASEMENT PREVIOUSLY RESERVED UNTO THE CITY OF GUNNISON; AND THE EXECUTION BY THE MAYOR AND CITY CLERK OF A QUIT CLAIM DEED THERETO**, be introduced, read, passed and adopted this 22nd day of June, 2004.

City Attorney Landwehr informed Council the County requested this vacation of the easement so that hangars can be constructed on that property. There are no City utilities in the easement and no plans to construct any.

Roll call vote, yes: Smits, Simillion, Stone, Ferguson. So carried.

Roll call vote, no: None.

Ordinance No. 5, Series 2004, Re: Vacation of a Portion of Virginia Avenue and a North-South Alley Located in the Meldrum Subdivision; 2nd Reading.

Councilmember Smits introduced Ordinance No. 5, Series 2004, and it was read by title only by the City Attorney.

Councilmember Smits moved and Councilmember Stone seconded the motion that Ordinance No. 5, Series 2004, **AN ORDINANCE VACATING THE EXTENSION OF VIRGINIA AVENUE AND A NORTH-SOUTH ALLEY, BOTH LOCATED IN AN UNPLATTED AREA OF THE CITY OF GUNNISON, EAST OF ADAMS STREET AND NORTH OF TOMICHI AVENUE**, be introduced, read, passed and adopted on second and final reading this 22nd day of June, 2004.

Roll call vote, yes: Simillion, Stone, Ferguson, Smits. So carried.

Roll call vote, no: None.

Ordinance No. 6, Series 2004, Re: Lease/Purchase of Tandem Dump Truck and Wastewater Treatment Plant Generator; 2nd Reading.

Councilmember Simillion introduced Ordinance No. 6, Series 2004, and it was read by title only by the City Attorney.

Councilmember Simillion moved and Councilmember Stone seconded the motion that Ordinance No. 6, Series 2004, **AN ORDINANCE ADOPTING AN ADDITIONAL APPROPRIATION FOR THE FISCAL YEAR ENDING DECEMBER 31, 2004**, be introduced, read, passed and adopted on second and final reading this 22nd day of June, 2004.

Roll call vote, yes: Stone, Ferguson, Smits, Simillion. So carried.
Roll call vote, no: None.

Ordinance No. 7, Series 2004, Re: Wind Power Rates Text Amendment to City Utility Code; 2nd Reading.

Councilmember Stone introduced Ordinance No. 7, Series 2004, and it was read by title only by the City Attorney.

Councilmember Stone moved and Councilmember Simillion seconded the motion that Ordinance No. 7, Series 2004, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON ADDING A WIND POWER ATTRIBUTES RATE TO THE ELECTRICAL RATES OF SECTION 12-4-2, RATE TABLES, OF THE CITY CODE OF THE CITY OF GUNNISON**, be introduced, read, passed and adopted on second and final reading this 22nd day of June, 2004.

Roll call vote, yes: Ferguson, Smits, Simillion, Stone. So carried.
Roll call vote, no: None.

Councilmember Smits reiterated that this program is strictly voluntary.

Ordinance No. 8, Series 2004, Re: Contractor Certification for Installation of Water/Sewer Service Lines; 2nd Reading.

Councilmember Smits introduced Ordinance No. 8, Series 2004, and it was read by title only by the City Attorney.

Councilmember Smits moved and Councilmember Simillion seconded the motion that Ordinance No. 8, Series 2004, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON ESTABLISHING A CONTRACTOR CERTIFICATION PROGRAM THROUGH THE CITY'S DEPARTMENT OF PUBLIC WORKS TO CERTIFY INDIVIDUALS TO INSTALL WATER AND SEWER SERVICE LINES AND AMENDING SECTION 12-1-4(A) (4) AND SECTION 12-2-4(a) (3) OF THE CITY CODE OF THE CITY OF GUNNISON TO ALLOW CERTIFIED INDIVIDUALS TO INSTALL WATER AND SEWER SERVICE LINES**, be introduced, read, passed and adopted on second and final reading this 22nd day of June, 2004.

Roll call vote, yes: Smits, Simillion, Stone, Ferguson. So carried.
Roll call vote, no: None.

City Attorney: Nothing further to report.

City Manager: Mark Collins: 1. Informed Council there will be a reception for new Community Development Director Steve Westbay tomorrow from 5 to 6 P.M. in the CD office. 2. On Friday, from 10 A.M. until 1 P.M., the Community Center Architects and Contractor will meet with the Core Committee. At noon, the public is invited to give input on color and texture choices for the roof, metal and masonry for the building. There will be color palettes available. 3. The Diamonds in the Rockies girls fast-pitch tournament took place last weekend. There were 18 teams in town with approximately 700 visitors. Parks & Recreation will get visitor information and potential sales tax generated information to City Council, Main Street and the Chamber by the end of the month. 4. Mountain States Employers Council held a conference call meeting with Staff this morning. There will be a follow-up meeting on July 13. The market research is underway. 5. Budget season is underway once again. Staff held a 5-year Capital

Plan meeting on Monday, the 10-year Fleet Update was undertaken last week as was the Computer plan meeting. 6. Lastly, he will be out of town from Saturday through next week while he participates in the Bicycle Tour of Colorado.

Acting City Manager/City Clerk: City Clerk Davidson. Informed Council the Clerk's departmental report was in their packets and she would answer any questions they have. In addition, the contract for the recodification of the City Code was awarded to Code Publishing, Inc. of Seattle, Washington. The City's Code will be posted on their company's website with a link from the City's site. The Code will have a search mechanism. Council thanked the City Clerk for her report. City Clerk Davidson reminded Council next Tuesday is the 5th Tuesday and we currently don't have any agenda items. Council concurred not to have a meeting next week.

WSC Intern: Matt Johnston. Intern Johnston apologized to Council for his recent absence. He had a family emergency. He then informed Council that WSC had an orientation this week and last weekend. There were approximately 450 students on campus. The Wilderness Based Orientation has full registration for the fall. There is a lot of construction on campus and there were approximately 400 participants in last week's WSC wrestling camp.

Non-Scheduled Citizens:

Ashley King, Director of the Gunnison Arts Center, came forward and addressed Council. She first informed Council of happenings at the Art Center this summer including the Sundays @ 7 program, summer theater, melodrama and movies on Tuesday night. Ms. King then addressed Council about the perceptions citizens have about how government functions and how difficult it is for the average citizen to understand how government works. The perception at this time is that City Council is unwilling to make decisions and that is why they gave the Planning Commission the request for a big box retail moratorium. Council thanked Ms. King for her comments.

Butch Clark then came forward and addressed Council. Mr. Clark urged Council to involve the County in discussions on big box development. He would like to see many public forums on the issue. Mr. Clark cited many studies already conducted on this type of development. He would like Council to pay close attention to what happens when this type of store closes and the big box is left vacant. Mr. Clark urged Council to look at similar situations such as when EIS's were performed in connection with the 1994 proposed development at the ski area. As one final thought, Mr. Clark suggested prior to decisions on a possible Wal-Mart, that seminars on how local businesses can deal with the development of a large Wal-Mart should take place. Council thanked Mr. Clark for his comments.

General Discussion/Items for Work Session:

Mayor Ferguson: Informed Council he will be out of town from June 30th through July 9th.

Councilmember Simillion: Nothing further to report.

Councilmember Smits: Nothing further to report.

Mayor Pro Tem Stone: Asked why Councilmember Duba was absent. The Mayor explained Councilmember Duba was attending his parent's 50th wedding anniversary and had informed Council of his absence at the last Regular Session.

Adjournment: The meeting adjourned at 8:43 P.M.

Mayor

City Clerk